

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff, No: 1:20cr183-1/2/5/6

vs.

ADAM DEAN FOX,
BARRY GORDON CROFT, JR.,
DANIEL JOSEPH HARRIS and
BRANDON MICHAEL-RAY CASERTA,

Defendants.

Before:

THE HONORABLE ROBERT J. JONKER
U.S. DISTRICT Judge
Grand Rapids, Michigan
Wednesday, March 9, 2022
Excerpt of Jury Trial Proceedings
Opening Statements

APPEARANCES:

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19 REPORTED BY: MR. PAUL G. BRANDELL, CSR-4552, RPR, CRR
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MR. ROTH: Good morning. All it's going to take is one state to burn out and hang its governor and then those dominos will start to fall. That was Barry Croft's call to action in April of 2020. Adam Fox accepted and began plotting to kidnap the governor of Michigan. He said the whole point of this is we are sending a message to them that if we can get her we can get you. Needing the manpower for the kidnapping they recruited a militia of which Brandon Caserta and Daniel Harris were members. They were going to break into the governor's home and kidnap her at gunpoint. They would hog tie her and take her away. They planned to blow up a nearby bridge to stop police from responding.

This was not just talk. Their actions were louder than and just as disturbing as their words. It is their actions that show you how serious they were about doing this. They performed reconnaissance at her house twice. They gathered the gear they would need to break into her home and violently kidnap her. Guns, ammunition, flex cuffs, explosives. But it was when they were trying to buy the bomb that they needed to blow up the bridge near the governor's home that investigators stepped in and stopped the tragedy that the Defendants promised.

You are going to hear from a number of people in this case who will explain and illustrate the Defendants'

1 conspiracy, some of whom from the inside. You will hear from
2 two undercover investigators, one who posed as a member of the
3 group and one who posed as an explosives dealer.

4 You will hear from militia members who attended the
5 field training exercises with the Defendants. You will hear
6 from a confidential informant named Dan. Dan is a military
7 veteran who joined the Wolverine Watchmen before ever
8 cooperating with law enforcement thinking it was a normal
9 militia where he could practice weapons handling and firing.
10 Within an hour of being allowed into their encrypted chat room
11 he was so disturbed by the violence they were discussing and
12 planning that he contacted police. He agreed to cooperate with
13 investigators. He agreed to remain in the group and he agreed
14 to record their conversations. You will hear those recordings.

15 You will hear from two members of the conspiracy, Ty
16 Garbin and Kaleb Franks. They will tell you how real this was.
17 They will tell you their reasons for getting involved in it,
18 the reasons they were going to kidnap the governor. They will
19 tell you that they were charged in this case. They will tell
20 you that they pled guilty to conspiring with these Defendants
21 to kidnap the governor and they will tell you that they are
22 going to prison for it.

23 With social media posts, chat transcripts, covert
24 recordings, pictures and physical evidence, the testimony in
25 this case will show you how the Defendants went from a rough

1 idea to a specific and concrete plan that they were preparing
2 to execute.

3 Barry Croft is a member of what is called the Boogaloo
4 movement, and he is a national figure within that movement.
5 The other Defendants are local members of the Boogaloo
6 movement. The Boogaloo believes that this country is broken
7 and that politicians on both sides are at fault. That they
8 should be targeted and attacked. They believe that a second
9 civil war is coming. They are looking forward to the civil
10 war. They are getting ready for it and they are looking for
11 ways to start it, and for Barry Croft that meant violence. You
12 will see during this trial that he has changed his appearance
13 considerably, and while he may look harmless now, while he may
14 look like a middle school math teacher now, he looked quit a
15 bit different back then when he was with them, when he was
16 training.

17 In June of 2020, at a national meeting of militia
18 leaders in Ohio, Barry Croft called for and demanded violence.
19 You will hear him describe himself as a terrorist. You will
20 hear him say that he asked God for permission to kill and that
21 he claimed that he got it. You will hear him say, we have to
22 take action. I am going to burn mother fuckers' houses down,
23 blow shit up. I am going to do some of the most nasty
24 disgusting things that you have ever read about in the history
25 of your life.

1 In Ohio he met Adam Fox. Adam Fox also claimed to be
2 anoointed from God to wage war here in Michigan. He told the
3 others in the eyes of my God I'll die a fucking saint covered
4 in blood. Fox already had the beginnings of a plan here in
5 Michigan. He was not satisfied with the idea of merely
6 storming the Michigan Capitol. He wanted a hostage. He wanted
7 the governor. You'll hear him say, we are going in there with
8 a specific agenda to take these mother fuckers hostage.
9 Because at the end of the day that building is brick and
10 mortar. That's not valuable. That's not worth anything. It's
11 totally replaceable. You take politicians, now you got human
12 life. That's the most valuable thing you got. Then you got
13 something to negotiate with.

14 He went onto say of the governor, we just want the
15 bitch. We want the tyrant bitch. We want her flex cuffed on a
16 table. Fox knew he didn't have the manpower yet, but he worked
17 on the plan. He talked about needing to be optimistic. He
18 talked about training and being ready to attack for the moment
19 that presented itself when they could grab her.

20 Croft put Fox in charge of the kidnapping plan in
21 Michigan and connected him with the manpower that he would
22 need, a small militia in Michigan that call themselves the
23 Wolverine Watchmen. Daniel Harris, Brandon Caserta, Ty Garbin
24 and Kaleb Franks were members of the Wolverine Watchmen. These
25 would be Croft and Fox's soldiers, what Adam Fox called his

1 kill squad. The Wolverine Watchmen had already discussed
2 storming the Capitol and assaulting the governor.

3 They were anxious and eager and enthusiastic to help
4 Croft and Fox. They began meeting, planning and training.
5 They discussed where to abduct the governor. Early on they
6 ruled out the Michigan Capitol. They believed that they did
7 not have enough people to succeed there.

8 Harris initially didn't even want to bother with
9 kidnapping. He just wanted to murder her. He suggested
10 shooting her as she came or went from work or posing as a pizza
11 delivery person and shooting her at home.

12 Brandon Caserta also suggested just killing her. He
13 talked about crushing her skull. Caserta didn't think they
14 should stop with the governor though. He talked about wanting
15 the blood of the people above her. You'll hear him say, when
16 the time comes there will be no need to try and strike fear
17 through presence. The fear will be manifested through bullets.

18 Adam Fox opted for kidnapping, though, and convinced
19 the others. The Defendants turned their sights on the
20 governor's cottage up north. Understanding that they were
21 doing something illegal, something terrible, they practiced --
22 excuse me, practiced what they called OPSEC, or operational
23 security, to prevent police from catching and stopping them.
24 They performed security checks, background checks on the
25 members of their group to make sure they were who they said

1 they were. They communicated using an encrypted chat
2 application. Not FaceBook. Not the sort of common social
3 media platforms that we all use that we talked about yesterday.
4 They used an encrypted application that was designed to prevent
5 law enforcement from intercepting messages.

6 These were not keyboard warriors. This was not
7 FaceBook fluff. These were conspiratorial communications.
8 This is how they planned the kidnapping. They used code words.
9 Cupcakes were bombs. A Baker was a bomb maker. Ticks were
10 medical investigators. Spaghettios were legal guns. A can
11 opener was fully automatic guns, and in-laws were concerned
12 about law enforcement seeing or hearing them. Ask yourselves
13 why they needed code words? Why did they need these code
14 words?

15 The Defendants all met up in Cambria, Wisconsin in
16 July of 2020 for a field training exercise for practice for
17 training. Barry Croft came from halfway across the country to
18 meet with his Co-Defendants and help develop their plans.
19 Barry Croft wanted to use snipers to shoot and kill any
20 security that the governor may have with her. He said that
21 without explosives they would never stand a chance, so he and
22 Daniel Harris and Adam Fox discussed who they knew, who could
23 get explosives for them.

24 Daniel Harris is a former marine who bragged about
25 learning how to make improvised explosive devices, or IEDs, in

1 the military. He talked about the different components they
2 needed, and with that knowledge he and Barry Croft built and
3 improvised an explosive device and wrapped it in BBs and
4 attempted to detonate it. As Croft said that weekend they were
5 training to clear the rubbish, governors who they felt were
6 destroying this nation.

7 After that training the Defendants continued to
8 discuss their plans and figure out who within their group was
9 serious about this, who they could count on to be there and to
10 keep quiet and aid them in kidnapping the governor, because as
11 Brandon Caserta said at the time, quote, some people say they
12 are all about it until something happens, so we'll see what
13 happens when we actually start to do it. These were not people
14 who were all talk. These were people who wanted to make sure
15 that all of them were about action. These were people who
16 wanted to separate themselves from the people that were all
17 talk.

18 Around this time the group became concerned that they
19 had been infiltrated by federal investigators, and at Daniel
20 Harris's demand they moved the communications to another even
21 more secure encrypted chat application.

22 The Defendants continued to refine their plans and
23 specifically where they would abduct the governor from. In
24 August of 2020, Adam Fox found and surveilled the governor's
25 cottage in Elk Rapids for the first time. He knew what they

1 were going to do. He talked about killing her protection
2 detail and any police that may be with her. He said, it's
3 going to be a nightmare. It's going to be a fucking shootout.
4 We know that. We have multiple forces to go against.

5 The Defendants met up again at a militia field
6 training exercise in Luther, Michigan on December 12, 2020, and
7 there they solidified their plans. Again, Barry Croft traveled
8 half the country to train with his soldiers. Barry Croft and
9 Daniel Harris built another IED, this time a firework that they
10 cut out the bottom of and wrapped in pennies. Barry Croft said
11 those pennies would act as shrapnel being evicted from the
12 explosive and killing anybody within a radius around them. He
13 said they would be so hot they would go right through their
14 skin. And they did detonate that IED that day, but before
15 doing that they hung silhouettes with human shapes around it
16 because that's what they were using these IEDs for. These IEDs
17 were meant to use to kill police or security who may be with
18 the governor when they attacked.

19 That weekend Adam Fox spoke to a man he knew as Red.
20 Fox asked and agreed to purchase explosives from Red. These
21 explosives they would use in their kidnapping plot. Red was
22 actually an undercover FBI agent. Adam Fox recruited people to
23 surveil the governor's house a second time later that night.
24 Brandon Caserta and Daniel Harris initially agreed to go but
25 later got so drunk that they did not. Fox, Croft and others,

1 including two informants and two undercover agents, did.

2 They drove almost an hour each way to Elk Rapids. A
3 little after midnight in total darkness their three cars
4 arrived in Elk Rapids. They circled the governor's home,
5 stalking their prey. They found her house from across the
6 water. They drove up and down the road looking for the right
7 opportunity for when they come back. They decided the route
8 they would take into her home. They decided the route they
9 would flee afterwards with her.

10 Adam Fox reiterated that they would shoot and kill any
11 security that was with the governor. He mimicked the sounds of
12 gunshots coming from their silenced rifles. That night Adam
13 Fox went under a bridge that was near her home to find the best
14 place to plant explosives to blow up that bridge to prevent
15 police from responding, and when they had the information they
16 needed they returned to Luther, Michigan.

17 All the co-conspirators met the next morning, all of
18 the people that went on the reconnaissance the night before, as
19 well as Brandon Caserta and Daniel Harris. Adam Fox reviewed
20 what they learned from the surveillance and reconnaissance the
21 night before and they agreed to pool their money to purchase
22 the explosives they would need. They talked about the war zone
23 that they would be creating. Harris acknowledged that the
24 governor's security would get out and fight them head on. They
25 talked about walking away from their lives afterwards if they

1 lived, if they weren't caught. They were all in. As Brandon
2 Caserta said, he was needed for this battle.

3 Later that day the group did repeated runs through
4 what they called a shoot house or kill house to practice
5 breaching or breaking and entering the governor's house at
6 gunpoint. They built a model of her house there at their
7 training site and did repeated runs through it, entering with
8 guns drawn, shooting and ultimately taking over the home
9 preparing for the day they would go back.

10 Several weeks later, on October 7th, 2020, Brandon
11 Caserta told the others, next time they are, quote, doing a
12 recon or something and we come up on any police, you better not
13 give them a chance. You either tell them to go right now or
14 they are going to die, period. That's what it's going to be
15 because they are the fucking enemy.

16 Later that day Fox, Harris, Franks, Garbin and the
17 informant drove to Ypsilanti where Adam Fox was going to pay
18 Red a deposit on the explosives and others were going to pick
19 up gear and equipment instead. Police and investigators
20 intervened. Investigators executed search warrants on each of
21 their homes that day and found the tools of their conspiracy:
22 Flex cuffs, zip ties, explosives, night vision goggles, and
23 more, including a short-barreled rifle at Daniel Harris's home.

24 As the Court has already told you, at the end of this
25 trial there are four charges. First, all of the Defendants are

1 charged in Count 1 with the conspiracy to commit kidnapping,
2 and the conspiracy is just an agreement, in this case an
3 agreement to kidnap the governor.

4 Second, Adam Fox, Barry Croft and Daniel Harris are
5 charged in Count 2 with the conspiracy to use a weapon of mass
6 destruction. Fox, Croft and Harris agreed to use explosives in
7 their plan to kidnap the governor. They detonated an IED in
8 Luther together and they planned to use more explosives under
9 the bridge and to fight off any police or security that got in
10 their way during the kidnapping.

11 Third, Barry Croft and Daniel Harris are charged with
12 possession of an unregistered destructive device, the IED that
13 they detonated in Luther.

14 Fourth and finally, Harris is charged with possession
15 of an unregistered short-barreled rifle. The rifle that
16 investigators found in his home was shorter than the law
17 allowed.

18 Set aside the Defendants' political views. Set aside
19 their desire for a second civil war. Set aside the governor's
20 job and her title and whatever you may think of that. What you
21 have is that the Defendants agreed, planned, trained and were
22 ready to break into a woman's home where she slept with her
23 family in the middle of the night, and with violence and at
24 gunpoint they would tie her up and take her from that home, and
25 to accomplish that they would shoot, blow up and kill anybody

1 who got in their way, in their own words, creating a war zone
2 here in Michigan. And for that, at the conclusion of this
3 trial we will ask you to find each of the Defendants guilty for
4 the crimes with which they are charged. Thank you.

5 THE COURT: All right. Thank you, Mr. Roth. We'll go
6 now to the Defense openings. Everybody gets a chance to make
7 one, and we'll start with Mr. Gibbons. Are you going to be
8 using video and have you connected up?

9 MR. GIBBONS: I am not going to use video during my
10 opening.

11 THE COURT: You are not. Very good. Okay.

12 MR. GIBBONS: Good morning. I am Christopher Gibbons.
13 I represent Adam Fox. I do not represent the other Defendants
14 that are here, so I'll only be speaking primarily to the case
15 as it relates to my client and how I see things and what we
16 think is going to be happening here in this trial.

17 I can start by saying this, that we couldn't disagree
18 more on our side of the table about what the evidence in this
19 case suggests and means. Adam Fox did not commit a crime in
20 this case. We think the evidence will fail to show that Adam
21 Fox did not agree with another person to kidnap the governor of
22 Michigan. There was no plan. There was no conspiracy.

23 The essence of a conspiracy is an agreement. An
24 agreement in this case I think is something that would be
25 supported by talk, and you are going to hear a lot of talk in

1 this case. We've already heard a lot of talk in the
2 government's opening, talk that got the government's attention
3 when Dan, an undercover informant, who became an undercover
4 informant, reached out to the FBI because he had seen things in
5 a chat room that concerned him.

6 The evidence will show that he met with the FBI and
7 that he agreed to perform services for them as an investigator,
8 as informant. The evidence will show that Dan agreed to
9 provide access to the FBI so that the conversations and the
10 things that were being done or said within this group, the
11 Wolverine Watchmen, could be monitored, and Dan was pretty
12 effective. He did get into the group. He was in the group.
13 He was able to provide information to the agents that he was
14 reporting to. He had agreed and he did write notes and make
15 reports so that they could keep track of the goings-ons of the
16 Watchmen.

17 All of this starts in mid-March of 2020. Mid-March of
18 2020 also corresponds with the historical imposition of the
19 pandemic and COVID-19. As we moved into the spring things for
20 all Americans had drastically changed. The government had
21 moved in ways that it had never done for any of us in our
22 lifetime. We are told we can't go to work. We are told that
23 we have to stay away from each other. We are told that things
24 are unsettled and that creates stress for everyone. And as Dan
25 is monitoring the Watchmen, who are preppers, they are kind of

1 already inclined to be thinking that things aren't the way they
2 are supposed to be. Now they really aren't. Dan is doing a
3 good job. The FBI is happy. They are paying him money. He
4 has offered voluntarily by the FBI without asking envelopes of
5 cash throughout the summer and from the spring.

6 As they move forward into June, Dan is continuing to
7 provide access, but there is no crimes. The Watchmen aren't
8 breaking the law. The Watchmen are talking and they are
9 talking political talk and they are talking their militia talk,
10 but they are not breaking the law. And the FBI has Dan, and
11 Dan is a truck driver. Twelve years or so before March he had
12 been in the military. He had some experience.

13 Dan is doing good with the FBI. He likes his job I
14 think is what he will say, but he is not really producing
15 evidence of a crime. He has been on the case for three months.
16 So you know, if you are not producing evidence of crime in a
17 case, if an informant has been working and working and working
18 and there really isn't anything developing, eventually the FBI
19 will close that informant, and when that informant is closed,
20 they don't have anything to do with the FBI anymore. They go
21 back to their regular life, and that's when the informant, Dan,
22 runs into my client, Adam Fox, at one of the rallies in
23 Lansing.

24 The government has put up pictures of my client with
25 his Hawaiian shirt. He is open carrying a rifle in Lansing.

1 That's all legal, but it's kind of suspect. I can understand
2 why the FBI might be curious. But who is Adam Fox? The
3 evidence will show that he is a misfit. When he was in Lansing
4 and into June of 2020, he had been working at a Vac Shack, it's
5 a vacuum store, for a family friend. He had been out of money.
6 He wasn't getting unemployment. He wasn't associated with a
7 militia when he first met Dan in Lansing. Adam Fox had prior
8 been in a militia but he wasn't in that one anymore so he was
9 kind of all on his own. Like I said, he is kind of a misfit.

10 Adam Fox talks big. He draws attention to himself.
11 He is trying to be cool. One thing that is apparent I think to
12 just about everyone that met Adam Fox, the evidence will show,
13 is that in May and June of 2020 Adam Fox didn't have really
14 nice equipment. He didn't have nice skills for tactical
15 training. He wasn't well trained. He had never been in the
16 military. He was basically homeless living in the basement of
17 the Vac Shack, which is not a residence. It's a commercial
18 building. Adam Fox's bedroom is blankets hung from the rafters
19 in the Vac Shack basement. There is no working toilet or water
20 in the Vac Shack. If Adam Fox wants to brush his teeth before
21 he goes to bed the evidence will show he has to go to the
22 Mexican restaurant next door to use their facilities.

23 The evidence will show that when the government
24 encounters Adam Fox he is no leader. He doesn't have a group.
25 Dan has been working with the Watchmen, the undercover

1 informant. He tries to get Adam to come to join the Watchmen.
2 The evidence will show that the Watchmen were not interested in
3 having Adam Fox in their militia. The evidence will show that
4 when Dan invites Adam Fox to come train and join the Watchmen,
5 that the CHS has to call one of the Watchmen leader's wives and
6 talk to her and vouch for Adam Fox so that they'll let him
7 come.

8 You'll hear testimony that Adam Fox does get to go to
9 this training on June 28, and the evidence will show that at
10 the conclusion of the training and at the conclusion of a
11 meeting that everyone had after the training was over, that
12 there was no plan. There was no agreement. There was no
13 conspiracy to kidnap the governor of Michigan or any other
14 governor. There was a lot of talk. There was talk potentially
15 of maybe if we had 300 men a capitol could be stormed or some
16 type of radical action could be taken, but there was no plan.
17 There was no conspiracy at the end of the day.

18 And the interesting thing to me is that when Adam Fox
19 met Dan and first talked to him in the middle of June, Adam Fox
20 didn't have a militia but he was on the government radar. He
21 had before that had contact with another informant named Steve,
22 who is in Wisconsin.

23 Did you want to object.

24 MR. KESSLER: Yeah. Your Honor, I think we are
25 getting perilously close to covering stuff --

1 THE COURT: We are close. It's a difficult line to
2 draw under the order of proofs. I think as long as Mr. Gibbons
3 is trying to preview what he thinks will be evidence -- whether
4 it's admitted or not is another question. The jury knows it's
5 only going to consider it if it is, but if his argument is from
6 that evidence if it comes in, the jury should conclude there
7 was no agreement, then we are still in the land he can talk
8 about. If it goes beyond that, then we're not.

9 MR. GIBBONS: Thank you, Your Honor.

10 And to kind of get to my point, to understand where
11 I'm going and why I'm offering you this information is because
12 the government has gone to great lengths to make it look like
13 Adam Fox is a nefarious person with a big militia who wants to
14 kidnap the governor of Michigan, and that, to me, the evidence
15 there will show is all parlor tricks.

16 Adam Fox has a militia. The evidence will show that
17 the militia he has in this case is called -- it's very
18 specific. It's the Michigan III% Patriot Militia. And the
19 III% Patriot Militia is an organization operated by an
20 undercover informant working for the FBI, Steve. Steve hosts
21 national meetings. The evidence will show that Adam Fox was
22 invited to a national meeting of the III% Patriot Militia
23 organization in Dublin, Ohio on June 6, 2020.

24 Adam Fox is at that meeting and there are a number of
25 other people at that meeting. Adam Fox does not know this

1 Steve was an informant. Steve is in his early 50s. Claims to
2 be a veteran. He claims to be the president of the III%
3 Patriot Militia organization nationally. There is a national
4 board Steve says. One of the board members is at the meeting
5 in Dublin. Her name is Jenny. Jenny is also an FBI informant.
6 Jenny also has a charter. So each state has a charter, and if
7 you have a charter, well, that's your militia, and then you are
8 in charge of it and your job is to advance the goals of
9 whatever the III% Patriot National Militia may be.

10 Jenny has the charter for Tennessee and she is in the
11 meeting. Steve has the charter -- he is the president of the
12 national board, but he is also the Wisconsin guy, so he has the
13 Wisconsin charter. Also present is CM Phillips. He is a
14 representative from Missouri. He has the Missouri charter. CM
15 Phillips is a federal informant. Also present is an individual
16 named Frank, and Frank is from Virginia. Frank is a veteran
17 himself and someone the FBI has been watching and interested
18 in. And guess what Frank has? He has the charter for
19 Virginia. Barry Croft is the representative from Delaware.
20 Mr. Croft has been under investigation by the FBI.

21 Adam goes to Dublin, Ohio for this meeting. There is
22 about 15 people there. So I've given you about half of the
23 attendees. There is no agreement. There is a lot of
24 antigovernment talk. Who wasn't upset about COVID and COVID
25 restrictions? But there was no agreement out of Dublin, Ohio

1 on June 6. There was no conspiracy.

2 And to get back to my point, if Adam Fox is the
3 subject of an investigation for domestic terrorism, and he's
4 wandering around in Lansing and bumping around at the Vac Shack
5 with no group and no followers, that doesn't really help. So
6 Steve steps up with his national presidency and authority with
7 the board and announces on FaceBook, with Jenny Plunk helping,
8 that Adam Fox on June 23rd had been voted and approved by the
9 national board to handle the Michigan charter and to be the
10 president of the Michigan III% Patriot Militia. The evidence
11 will prove that the two informants made the FaceBook page, made
12 the announcement, and provided a mission statement for that
13 militia on FaceBook not just for Adam Fox to see and his
14 friends, but for everyone in Michigan, really anyone in the
15 world.

16 And so this is a pattern now. So now you have Adam
17 Fox moving to Munith. Just so everyone knows where we're
18 headed and kind of the nomenclature that the place has adopted,
19 Munith is where the Watchmen's president or commanding officer,
20 Joe Morrison, that's where he lives, and that's where the
21 Watchmen tend to train, and it's in Munith, Michigan, so we
22 call it Munith, and you are going to hear about trainings at
23 Munith. Some of the events that are significant in this case
24 happen at Munith. The other is Luther, which is up north.
25 It's Ty Garbin's family's property.

1 Moving forward. So Adam has, like, his militia, the
2 III% Patriot Militia, here in Michigan. He's got the charter.
3 It's June 23rd, but there is nobody in it. It's just Adam.
4 So -- but he's got a FaceBook page courtesy of the federal
5 government. And wouldn't you know, just like magic, Adam gets
6 a message, and the message is, I know -- the message is
7 basically I'd like to sign up. I'm interested. And who is it
8 that wants to sign up? An individual named Mark. He is a
9 rugged individualist from the Upper Peninsula, and he is also
10 an FBI agent working undercover. So Adam going into July has a
11 militia and he has one guy in it, a federal informant.

12 On June 28 at Munith, that's a big meeting because
13 it's got kind of all the players are all there with their
14 attendant, FBI informant. And there is no agreement, but that
15 doesn't stop Dan. Because you have to remember, Dan is going
16 to be the key. He is kind of like the backbone of the case.
17 He is the thread that goes right through the whole thing. Dan
18 starts it in the spring and Dan ends in October, and Dan is --
19 he is the framework upon which everything hangs in this case.

20 And Dan tells the boys -- some of these guys are
21 young. I am old. Adam Fox is 38. I just call them boys.
22 They are men. Dan tells the boys -- when they reject the idea
23 of black bagging politicians and committing acts of domestic
24 terrorism from an offensive perspective, Dan tells them, keep
25 an open mind. Keep an open mind. Why does he want them to

1 keep an open mind? Because he's taking them to Wisconsin to
2 see Steve the next weekend for a national FTX training event
3 that Steve has coordinated. It's not the boys' idea to go to
4 Wisconsin to train.

5 They get to Wisconsin. There is more talk, more talk,
6 more talk, more talk, and no agreement. The government will
7 say that the training was meant for training for the governor,
8 but I think the evidence is going to show that there is no
9 reference to kidnapping a governor from her or his home, and
10 that the training was calculated for that purpose.

11 The evidence is going to show that when the Wolverine
12 Watchmen started in the spring of 2020 with Dan the informant,
13 about 48 guys on FaceBook members, 10 or 15 of them were a
14 little more active showing up for barbecues, cookouts and
15 firearms training. And the Watchmen's version of training
16 before the introduction of Dan was to smoke pot, talk, drink
17 beer and then after you've had enough party go in the back and
18 dump a couple mags into a tree trunk from different positions
19 and all go home.

20 Dan is in his persona. Tells everyone and brags about
21 his tour experience in Iraq back in the 2000s, multiple,
22 multiple fire fights, 14 hours sustained fire fights. I had a
23 round go through my backpack. He is an impressive character,
24 especially to an impressionable person like Adam Fox who
25 doesn't have really any friends. No one has ever really shown

1 him much of a care. He can't get enough of Dan.

2 And what's Dan do? The evidence will show that Dan
3 takes the Watchmen from shooting pepper targets and tree stumps
4 in the back. He takes them to do real military style tactical
5 training. So the training that the government holds up here
6 today with people standing like this and breaching, the
7 government did it. Dan. He gave them all that training. None
8 of these guys know how to do any of that kind of stuff.

9 THE COURT: Well, I mean, you got -- you got to hue
10 the line. You can't get ahead of yourself or I'm going to
11 change the order of proofs.

12 MR. GIBBONS: I can do that, Your Honor.

13 THE COURT: All right.

14 THE GIBBONS: So the evidence will show that the
15 training is not to kidnap the governor. The evidence will show
16 that the training was brought to the table by the government to
17 make it look like these guys were --

18 MR. KESSLER: I think we just crossed the line.

19 THE COURT: That's over the line. Okay. So the order
20 of proofs is real clear where the government's case in chief
21 and your opening has to be limited to things that the
22 government can bring in its case in chief, not to things that
23 may or may not happen down the road. And it's one thing to use
24 the preview of the evidence as you see it to say there was no
25 agreement. It's another thing to start down a pathway of

1 saying somebody else induced the agreement. And that's a whole
2 different avenue. There are some overlaps, but you have to
3 stay within the lane for now, and if you go forward with a
4 different approach in your case in chief you get a chance to
5 talk about all of this.

6 MR. GIBBONS: Correct, Your Honor. If I may, with
7 respect to that and this training issue, it is not being
8 offered as evidence --

9 THE COURT: Well, but your argument just made it that
10 because you just -- you just used words that go well beyond
11 saying no agreement. That's why I think Mr. Kessler started to
12 stand up and why I'm saying the line is there. There is
13 overlap, I get that.

14 MR. GIBBONS: Okay.

15 THE COURT: But we are not at stage 2 yet. May never
16 get there.

17 MR. GIBBONS: I will -- I will move forward
18 accordingly.

19 In any event, Ladies and Gentlemen, as we move forward
20 into July, Mark, UCE Mark, that undercover employee Mark, Mark
21 comes down to have a meeting with Adam Fox, because Mark is at
22 this point the guy that he has in his militia. Adam Fox has
23 also picked up another person, another man to join his militia.
24 His name is Sean Fix. Mark comes down to a barbecue on August
25 1st. Mark is at the barbecue. Adam Fox is at the barbecue.

1 Sean Fix is at the barbecue. Sean Fix is the XO. Evidence
2 will show that XO is a term that they use in the militia
3 apparently and they use in militias. XO is executive officer.
4 So that's kind of the person that's supposed to get things
5 done. It is also the position that Dan the informant occupies
6 with the Watchmen. He is their XO. So it's his job to get
7 things done.

8 Mark is at the barbecue for about five hours. It's at
9 the Sean Fix residence. You are going to hear testimony that
10 things aren't what they appear. You are going to hear
11 testimony that Sean Fix is a navy seal. That Sean Fix did five
12 tours in Iraq and Afghanistan. That Sean Fix suffers from
13 combat induced PTSD. That Sean Fix has access to incredible
14 military equipment, but you'll also hear evidence that none of
15 that is true. Sean Fix it turns out -- after Mark gets done
16 with the barbecue, turns out Sean Fix has never been in the
17 military at all. It turns out that all of it is play acting.

18 And at the barbecue where Adam Fox has indicated there
19 was going to be 15 or so people showing up of different
20 militias that he had invited and different people he wanted
21 there who had militia import, the only ones to show up were UCE
22 Mark and Sean Fix, and he had Adam had his girlfriend Amanda
23 there and Sean Fix's girlfriend at the time. Her name was
24 Amanda as well. They lived together.

25 And there was a plan discussed, not reached or agreed

1 upon, but there was a plan that day. And the plan that day was
2 that they could get Governor Whitmer and they could kidnap her
3 if they got a boat and went to Mackinaw Island. And the plan
4 would be that they could go to the governor's mansion, which is
5 actually a state park and not her home in any way whatsoever,
6 and they could take custody of her person, take her back to the
7 boat, put her in the boat, take the boat out into the straits
8 of Mackinaw, and Sean Fix could then fly in with a Black Hawk
9 helicopter to take the governor away from the boat so that they
10 couldn't get -- so no one would know where they would go to
11 another area where there would be a rally point with a Huey
12 helicopter. And eventually a water exit is discussed up the
13 St. Lawrence Seaway for an ocean exit. It's going to be a
14 great plan if we agree on it.

15 You will hear that at this meeting copious amounts of
16 marijuana was being smoked. UCE Mark does his job. He has one
17 Miller Lite but everybody else is three sheets to the wind.

18 The evidence will show that this isn't a one time deal
19 either. The evidence will show that there were other meetings
20 with the informants where this kind of nonsense is being
21 talked. And it doesn't stop. They keep going.

22 The evidence will show that the real talk of
23 kidnapping Governor Whitmer is really not something my client
24 really wanted to do or anybody else. The evidence is going to
25 show that when the informant in various meetings would

1 encounter resistance to the suggestion that these individuals
2 do this, they didn't want to do it. They would say it's a bad
3 idea. He'd give them other ideas. Plan Bs. Well, if you
4 don't want to do Plan A you can do Plan B. Plan B might be
5 suggested by Dan incredibly --

6 MR. KESSLER: Your Honor, I think we're -- he is
7 opening the door for us to put in argument.

8 THE COURT: It's perilously close. I know it's not an
9 easy line to walk, but I tried to make it pretty clear. You
10 get to advance the theory if and whether another Defendant
11 asserts it, but it's not now. The case in chief is whether
12 there was an agreement as charged on any of these things,
13 whether these Defendants joined it, and whether there was an
14 overt act. And other things, you know, may come later. But in
15 the early going it's a much more limited issue, and if it goes
16 too much further we'll just start, you know, advancing
17 everything up front, and you know, I didn't think that's what
18 the parties wanted.

19 MR. GIBBONS: That is not what I want, Your Honor.

20 THE COURT: I know. Then you better hue your line
21 closely, because you are stepping over it as far as I'm
22 concerned.

23 MR. GIBBONS: But my point is, is --

24 THE COURT: It's not -- it's one thing to say there
25 was no agreement. It's another thing to say it was all the

1 government's idea. That's a different story. That's a story
2 that comes later if and when we get that far.

3 MR. GIBBONS: Very good, Your Honor.

4 As we move forward into August there is no agreement
5 at Munith. Again, there is another big event. An FTX. The
6 boys, this group, not all of them but most of them are
7 altogether. Supposed to be a big opportunity to get this deal
8 done. That's what Dan Chapel wants but it doesn't happen.
9 They don't agree. There is no conspiracy at this point. This
10 group really doesn't get together again, the evidence will
11 show, until September.

12 The government has made mention of encrypted chat
13 platforms and chat groups. The government put up a page that
14 showed Adam Fox and Barry Croft on each side of four Watchmen.
15 The evidence will show that they are not a group. Adam Fox
16 didn't consider them to be his men. There was no plan for them
17 to be men.

18 The government will have gone to great lengths I think
19 throughout this trial and throughout the investigative process
20 to put Adam Fox and others in compromising positions so that if
21 you can take their conduct --

22 MR. KESSLER: Your Honor, I think he is doing it
23 again.

24 THE COURT: It is when you are starting to talk about
25 that kind of thing. It may come in but it comes in in another

1 stage, not here. And then, you know, that's why we discussed
2 the need potentially to call back witnesses and all the rest so
3 that there would be to the extent we can draw clear lines,
4 clear lines, and it's important to keep them that way.

5 MR. GIBBONS: Very good, Your Honor.

6 The encrypted chats will not bear out as the
7 government has promised. The encrypted chats will show that
8 there was not a group of operators operating and talking and
9 communicating exclusively like one would expect. If a group is
10 moving forward and has agreed on a plan as the government has
11 alleged, that group should have some identity. The evidence
12 will show that they did not and that the government's evidence
13 on that point will fail.

14 We get to the end of the case. The government
15 suggests that Adam Fox and others agreed with the informant,
16 Red, who is the baker, the individual who is supposed to
17 provide the bomb. The evidence will show that no one really
18 wanted to buy the bomb and no one was willing to make a
19 commitment to buy the bomb. The evidence will show that UCE
20 Red ended up extending the opportunity to acquire a bomb on an
21 IOU.

22 And this gets me to my final point. We talked about
23 receipts in the jury pick yesterday. I want to see the
24 receipts. This bomb was supposed to cost, the evidence will
25 show, \$4,000. When the boys were arrested in October -- on

1 October 7, they were to meet with Red and they were promised
2 that there would be free gear, and the government will not be
3 able to prove that it was clearly communicated or agreed
4 between them that they were going to get a bomb. The
5 government will not be able to show that Adam Fox brought the
6 money to put a down payment on the bomb. The evidence will
7 show that Adam Fox had been broke as a joke the entire summer.
8 He had no income other than whatever he could scratch out of
9 the Vac Shack selling vacuum cleaner belts and vacuum cleaner
10 bags. The evidence will show that on the second or third of
11 October he received a back payment from the State of Michigan
12 in excess of \$8,000, and that money was in his bank and that
13 money was available to him. The evidence will show that he
14 also had back at the Vac Shack \$600 in cash in a box next to
15 his bed on the floor.

16 All of that will convince you, and everything else
17 we've discussed, that at the end of this trial these gentlemen,
18 and more in particular Adam Fox, my client, did not agree with
19 any person in any real way to kidnap Governor Whitmer. There
20 was no agreement. There was no conspiracy, and there was no
21 overt act made in support thereof, because there was no
22 agreement. No conspiracy. The verdict at the end of this case
23 I humbly will suggest it's going to be not guilty and an
24 acquittal on both counts for Adam Fox.

25 THE COURT: All right. Thank you, Mr. Gibbons.

1 Mr. Kelly, are you going to be using the screen?

2 MS. KELLY: No. I am not.

3 THE COURT: All right. Go ahead.

4 MS. KELLY: Thank you, Your Honor.

5 Good morning. In May of 2020 Daniel Harris, my
6 client, was scheduled to celebrate his 23rd birthday. Not a
7 year out from his honorable discharge from the United States
8 Marine Corps he was living at home with his parents. He was
9 working a security job and was watching as our country was
10 dealing with COVID-19 executive orders which shut down our
11 state and a myriad of social and political movements which
12 rallied in cities throughout our nation.

13 He watched the murder of George Floyd at the hands of
14 law enforcement officers and he watched as protestors burned
15 down cities like here in Grand Rapids. He was unhappy about
16 the direction that he perceived our country was headed and was
17 generally worried something worse was going to happen. He
18 wanted to get involved.

19 Daniel attended different rallies like the Black Lives
20 Matter rally. He went to the rally against the stay at home
21 orders in Lansing, and he went to a pro Second Amendment rally
22 also in Lansing.

23 He owns firearms. We talked about that yesterday.

24 And it was not unusual for him to be carrying a firearm.

25 Daniel comes from a long line of military and law enforcement

1 men and woman in his family. He enlisted under the delayed
2 entry program when he was just 17 years old. Most, if not all,
3 of his family members own firearms, and you are going to see
4 some of them here during the trial. The government is going to
5 bring in his AR-15 and show it to you. It sounds like they are
6 going to bring in his FN pistol F09 that he had on October 7th,
7 and maybe just maybe you're going to see his Century Arms rifle
8 that he purchased from his grandmother, who is also a veteran,
9 for around \$400. So you'll see those items.

10 Like most 22 year olds Daniel was active on social
11 media and various chat apps. He joined various FaceBook groups
12 and used other apps like Signal and Wire and Threema. That was
13 before he joined the Wolverine Watchmen. And in May of 2020,
14 around May 1st, he joined a FaceBook group called the Wolverine
15 Watchmen. It was suggested to him by one of his friends,
16 another veteran, because, hey, these guys do trainings. Just
17 as the informant Dan wanted to join the Wolverine Watchmen
18 because he was interested in training. It's a thing. Afraid
19 he might lose his skills that he learned in the military. He
20 wanted to continue his firearms skills, tactical skills and
21 medical training.

22 See, Daniel was working towards earning a contract to
23 go over to Afghanistan to work in a security position. It's a
24 much sought after track for recently discharged veterans, and
25 not surprisingly during the shutdown Daniel was also encouraged

1 by the social aspect of this group, the Wolverine Watchmen.

2 And you'll notice a thing that I am going to talk
3 about. Shooting guns and drinking beer. To be accepted in the
4 Wolverine Watchmen he described his experience as a military
5 person. His medical training. He talked about his guns that
6 he owned, some of which I just described, and that he liked
7 hunting and fishing. He also described some of the courses
8 that he earned in the Marine Corps. How to make IEDs. How to
9 do a tourniquet. And you'll see some of those from the
10 government exhibits from his notebooks from the Marine Corps.

11 Within about two weeks after joining the Wolverine
12 Watchmen Daniel started meeting them in person, and on May
13 14th, 2020, he met Dan, who Mr. Gibbons has already described
14 to you. Sometimes referred to as CHS Dan. Sometimes the group
15 would call him Big Dan and Skinny Dan. I call Daniel, Daniel.
16 But Daniel was quickly charmed by Dan. His self-proclaimed
17 military prowess and his employment as a firearms instructor,
18 perfect guide for Daniel to hook up with, right? A man nearly
19 a decade his senior who painted himself as a war hero. Daniel
20 was immediately drawn to Dan and trusted him. Sometimes Daniel
21 would call Dan dad. That's how much he trusted him.

22 While Dan was officially the second in command or XO
23 as Mr. Gibbons has described, most of the Watchmen believed him
24 to be the leader and they looked to him to lead these
25 trainings. Throughout the summer of 2020 Daniel met with other

1 Watchmen in Munith, Michigan, in Fowlerville, and was driven to
2 Wisconsin by Dan. These properties, which is important, these
3 are private properties. So these are people that would allow
4 other people with guns to come and shoot and to do trainings.
5 That's what it was.

6 Big Dan kept Daniel out of certain conversations as
7 described by Mr. Gibbons. And Daniel, from time to time, would
8 ask Big Dan, hey, you guys aren't doing anything more sinister,
9 right? Nothing worse is happening, right? And Big Dan would
10 provide Daniel that reassurance. When offensive acts were
11 suggested, many of the younger guys, including Daniel, left.
12 They separated. They left the Watchmen.

13 Now, Daniel continued to go to places to shoot guns,
14 to work on his medical skills, to share information that he
15 learned in the Marine Corps with others that were interested,
16 and to continue his training.

17 The government didn't mention this in their opening
18 statement, but Daniel also traveled with some of the guys and
19 Big Dan to Peebles, Ohio. There they met Frank Butler, and
20 described by Mr. Gibbons, Frank Butler become a laughing joke
21 by the younger guys of the group because of his wild ideas to
22 break into the CIA building, to kidnap the governor. He was a
23 laughing stock to Daniel and others. And after this meeting,
24 Ty Garbin, who you'll hear from, drove the guys across the
25 state line and they got drunk at a hotel. That was the big

1 thing about Peebles, Ohio.

2 Daniel made many inappropriate and immature statements
3 throughout the summer. He liked to send memes and he liked to
4 quote from movies and shows like South Park. He liked to talk
5 about drinking and girls and guns. He liked to light off
6 fireworks. The government talked to you about a firework that
7 was set off in Luther. Hey, Daniel, you want to set this off?
8 Sure. And that's what you'll see. That's what the evidence
9 will show.

10 He showed loyalty in ways that you and I might not
11 show it, and he was not perfect in the summer of 2020, but he
12 has not done what the government has accused him of.

13 I talked yesterday with you guys about that jury
14 instruction about how to determine credibility, and the judge
15 will instruct you on that later, but looking at ways to
16 determine who is telling the truth on the stand, that's up to
17 you guys. And you will hear from Ty Garbin and you will hear
18 from Kaleb Franks. The government will call them. Those are
19 two members of the Watchmen close in age to Daniel Harris. I
20 want you to pay close attention to the inconsistencies of the
21 statements that they've made as time as gone on. That's going
22 to be an important key piece and I'll talk to you about that
23 again at closing argument.

24 As I mentioned, Daniel Harris was kept in the dark
25 about vital information related to the government's case. That

1 weekend in Luther, that's Ty Garbin's property. Fully scripted
2 by the FBI several weeks prior. And it included --

3 THE COURT: That's the same issue for Mr. Gibbons, and
4 it's going to be up to each of you to decide if you want to
5 open stage two, but if you open it before we get there, then I
6 am going to give the government a chance to respond even if you
7 don't want to.

8 MS. KELLY: Fair enough.

9 THE COURT: You understand?

10 MS. KELLY: Yes, Your Honor.

11 THE COURT: Go ahead.

12 MS. KELLY: At that Luther weekend there are all three
13 confidential human sources, Dan, Jenny and Steve, two
14 undercover agents who I only know as Brad and Mark, many other
15 agents waiting in the wings of the pole cameras that were
16 installed and MSP waiting on 131. For this weekend, this
17 weekend that was a big piece of the government's case, Daniel
18 Harris brought his gun you'll see paraded in here. He brought
19 a poop emoji hat for someone -- that's for another person, and
20 he brought his dog Ollie that he rescued while in the Marine
21 Corps. So you know where his mind is on that weekend.

22 He made opening remarks to the group in Luther about
23 the importance of safety, and then he ran a medical tent
24 through the whole day.

25 Not one person -- and I know the government said he

1 initially agreed to go in their opening statement, and I
2 understand it's not evidence. Not one person told Daniel
3 Harris about the night ride along to the governor's house. Not
4 one person told him about Red or these bomb videos. He was
5 working at the medical tent. He had no idea. Not Big Dan, not
6 Steve, not Jenny, not FBI agents, not his closest friends who
7 will be painted that way, Ty Garbin or Kaleb Franks. And the
8 question that I'll ask you at the end of this case is why
9 didn't anybody tell him that? And I think it's because they
10 knew he didn't want to go. He did not agree or enter into any
11 agreement to conspire to commit kidnapping or possess weapons
12 of mass destruction. And as the Court has told you, in looking
13 at jury instruction 103, you can't make up your mind until you
14 hear all of the evidence, and I encourage you to follow that
15 presumption of innocence, that proof beyond a reasonable doubt,
16 that proof which is you would not be hesitant to rely and make
17 the most important decision of your life. That's the kind of
18 proof we are talking about in this case. And I will come to
19 you at the end and I will ask you to find Daniel Harris not
20 guilty. Thank you.

21 THE COURT: All right. Thank you. We'll go to
22 Mr. Hills.

23 MR. HILLS: Good morning, Ladies and Gentlemen. My
24 name again is Mike Hills. It's my pleasure to represent
25 Brandon Caserta in the trial of this matter.

1 Now, what I'd like to do is walk through what I
2 believe the evidence will show as far as Mr. Caserta's
3 experience through all of this thing, and you've already heard
4 a lot of they did this and they did that. Well, you are going
5 to find, I think, that Mr. Caserta wasn't at a lot of events.
6 You have heard about some of them.

7 You have heard that Dan was involved with recording
8 events. He was, and he recorded a lot of events. He recorded
9 a lot of phone calls. I'll just throw out some dates. You are
10 going to get these, but there was meetings at the Vac Shack for
11 example. My client wasn't involved in that. You've heard
12 about meetings in Ohio. My client wasn't involved with that.
13 You won't hear any recordings with my client on the phone. So
14 there is the they. My client wasn't involved in a lot of this,
15 and I'm going to walk through what my client was involved with
16 so you can then separate that from what he was not involved
17 with.

18 So in the spring of 2020 my client was living in the
19 metro Detroit area, Canton, in a very small apartment, a
20 one-bedroom apartment, and he was working as a machinist also
21 in that area, in the Canton area, metro Detroit.

22 My client had a vehicle, a sedan. I believe it was
23 about 21 years old. 211,000 miles on it. Not terribly
24 reliable, but it was his. You will also find that my client
25 was, I think some people might call it a prepper. Some people

1 might say being prepared. There's going to be evidence that my
2 client had big tubes of dried food, MREs, things to last maybe
3 90 days or so. You're also going to see that he had, like, a
4 water filtration device, saws and ropes and things, survivalist
5 kind of things. You are also going to see that he was a gun
6 enthusiast. He had a kit. I think you are going to understand
7 what a kit is after this. There's going to be testimony that
8 that's a vest with armor plating on the front and on the back
9 and it also had little pockets for your magazines with bullets
10 in it and a tourniquet. You'll have medical equipment in that
11 thing, too. And he also had guns. He had four of them. He
12 had two pistols and two long guns.

13 Now, you've heard about a lot of different charges and
14 counts. My client is only charged with one count, conspiracy
15 to kidnap the governor of Michigan. He is not charged in any
16 mass destruction or any -- with any illegality with these guns
17 or the bullets that were at his apartment. I think you'll find
18 that there are no charges there. They are all completely
19 legal.

20 So you've heard from openings, and we don't need to
21 remind you of the spring of 2020 with the pandemic and the
22 shutdowns, riots, et cetera. The fabric of our country was
23 being stretched if not torn at that time. And my client was
24 concerned about society and what was going on, as many of us
25 were, and he was looking to train. He doesn't have this

1 military background, so he was looking to get some trainings in
2 case of societal break down he could protect himself and his
3 property. And if he is in a group he can help others and help
4 protect them and they can help protect him.

5 So he was looking on line and he found a group on line
6 called the Wolverine Watchmen. And in order to get into this
7 group then you download an app. They call it an encrypted app.
8 It is supposed to be an encrypted app, but it's one you get off
9 your phone and you download it from the app store. So he
10 downloaded it from the app store, and he is then in a series of
11 chat groups that you can talk with these other individuals who
12 are also gun enthusiasts and would like to train. So that's
13 how you initially get into this group.

14 And the chats -- you know, I have been on this case
15 for a while, the chats get confusing because there is a lot of
16 them. But I want to stop here and just go over one of them for
17 a moment, because my client is in some and my client is not in
18 others. So there are two fafo chats. Fuck around and find
19 out. One is long form and one is going to be on Wire, and that
20 is one that occurs August, July and in that timeframe. And
21 there are -- I think there are going to be a lot of chats that
22 you are going to see from that. My client was not in any of
23 that.

24 Fafo after August 31, Dan, I believe sets up a chat
25 there, and then my client is in that one. So he is not in the

1 first one but is in the second one. So I just want to bring
2 that to your attention so you at least have some context where
3 my client is and where my client isn't. Because that's
4 important to me on my client's behalf.

5 So first training. I'll do an overview really quick.
6 My client sum total, he got into the Watchmen June 8th and 9th
7 of 2020, and then was arrested on October 7th of 2020. In that
8 time sum total my client was involved with five trainings.
9 June 14th, June 28th, early July, July 11th and 12 in
10 Wisconsin, and July 26th at Fowlerville which is Kaleb Franks'
11 father's house. Kaleb Franks is one of the individuals that
12 you will hear from that is going to testify. And then finally
13 Luther. There are two other meetings that my client is
14 involved with in August. One at his house on August 16, and
15 then another one on August 23rd at Daniel Harris's mother and
16 father's house at Lake Orion. So that's the sum total of where
17 my client was.

18 June 14th, 2020, that's the first training exercise,
19 if you will, that my client was involved with. And this is at
20 Munith, Michigan. You are going to hear the names, but Pete
21 Musico lived there with a son-in-law, I believe, Joe Morrison
22 and Joe Morrison's wife, Jada Morrison. And this is the first
23 event my client goes to, and this is what is mostly dry fire.
24 In other words, manipulating your weapon, unloading, reloading,
25 that kind of thing. I think there was some live fire but not

1 much.

2 And so when my client gets to Munith, Michigan on June
3 14th, Dan is fully engaged with the Watchmen at that time. He
4 has been there for a couple of months already. So this is what
5 my client steps into. And Dan is there on June 14th. He is at
6 every one, all of these, and he's fully recording this event
7 and training. I believe you'll see that he is basically the
8 trainer. And like my colleague indicated, that's attractive to
9 these people because that's what they are there for. He's got
10 all of the experience, et cetera.

11 So my client comes back. The second one that my
12 client goes to, again, is at Munith, Michigan. That's central
13 lower Michigan in the Jackson area, again, at the
14 Musico/Morrison residence, and at this training I think
15 Mr. Gibbons indicated that there was this meeting. My client
16 shows up. I believe that I'll call him Big Dan goes and gets
17 Adam Fox, Sean Fix, Amanda Baker, and Amanda Keller, and then
18 brings them back to Munith. It's a trailer. I think you'll
19 get -- maybe we'll have some pictures of it.

20 And there is a meeting and then there is another
21 meeting. So there is one meeting outside apparently, and this
22 is not recorded. Apparently the batteries died and there is no
23 recording of this event. So there is a meeting, and I think
24 that the testimony is going to be that there is ideas of
25 storming the Capitol with a couple hundred men and basically

1 it's rejected. And this is my client's second time and last
2 time at Munith, and I don't know if it was said, but none of
3 this is my client's idea. You won't hear anybody say that my
4 client said any of this at the June 28th meeting.

5 Then there is a separate meeting where Big Dan goes
6 into a trailer and they talk about certain things, whatever it
7 is. It's out of my client's purview. My client doesn't go
8 into the trailer. He is not invited in, and he leaves.

9 The next event my client is invited to is Wisconsin,
10 and this is billed as a family event but it's live fire. We
11 are going to train. We are going to, you know, shoot, shoot
12 our guns and we are going to do different things. So this is
13 attractive to my client. Again, he doesn't have a vehicle so
14 he rides with Big Dan. Big Dan gets a suburban and he picks up
15 everybody. He picks up -- I can't remember who is in the car.
16 Kaleb Franks, Ty Garbin, a gentleman named Paul Bellar, Daniel
17 Harris, my client, and Big Dan. And Big Dan drives them to
18 Wisconsin.

19 And you've heard that this is hosted by -- basically
20 by service -- or confidential human source Steve, and at this
21 event for the first time there is what you call a shoot house,
22 and they assemble it in this guy's yard, and I think they
23 showed pictures of it. It's plywood in a circle, and they have
24 a door, and they practice going in one, two, three, four, and
25 then they shoot at some targets that are a few feet away, and

1 then sometimes they even go through another opening in the
2 plywood and they shoot again.

3 So this is the first time my client has ever done any
4 of this kind of training, and it's live fire. They get to
5 shoot their guns. You'll see they also do some other training.
6 There are barrels and they go in pairs and they are, like, by
7 the barrels, and somebody runs and somebody shoots at the berm
8 or the steel targets, and another person runs and then they
9 shoot again by these barrels at a berm with steel targets.
10 Okay. So this is Wisconsin.

11 You are also going to hear at Wisconsin that Barry
12 Croft is invited. This is the first time my client first -- he
13 meets them twice. Once at Wisconsin, and I think the
14 government has cued up a recording of it. And Barry is talking
15 about having national law courts and treason and got to shoot
16 airships out of the sky and chain saw trees down and lay them
17 across the road from Ohio to Timbuktu.

18 Now, as I indicated, none of that that you'll hear is
19 my client agreeing to any kidnapping. The government searched
20 my client's house, and I told you what they found there as far
21 as guns, two long guns, two pistols. No missiles, no rockets
22 to shoot airships out of the sky. Not even -- he has a little
23 saw I think but no chain saw to chain saw trees down and lay
24 them across the road.

25 Okay. And so that's Wisconsin. And Dan drives

1 everybody back. And the next training they -- as I think has
2 been indicated kind of separated from Munith and the Morrison I
3 think you are going to hear that there is issues with Jada
4 Morrison and Joe Morrison and Pete Musico. So this group kind
5 of separates from the Wolverine Watchmen. Not because they are
6 coordinating with Adam Fox, but because there are issues with
7 Jada Morrison/Joe Morrison drama basically going on in Jackson.
8 So they separate.

9 So after Wisconsin my client goes to his third
10 training. Fourth training. I'm sorry. Because two in Munith,
11 one in Wisconsin, fourth training. July 26th. And this is
12 live fire at Kaleb Franks' father's residence in Fowlerville,
13 Michigan.

14 Now, in this Dan is leading the training and
15 recording, and they are using Kaleb Franks's PT Cruiser, so I
16 think we are going to get to see a videos of them training in
17 the PT -- in and around the PT Cruiser. They are getting out
18 of the PT Cruiser, shooting their guns, backing up, shooting
19 their guns at these steel targets, and then they park the PT
20 Cruiser sideways, and then they run up to the PT Cruiser and go
21 around and shoot the guns, criss-cross around and shoot the
22 guns. So that's the training at Fowlerville.

23 One more training to go for my client. There is no
24 more training in July. That was July 26th. In August my
25 client is involved in two meetings. The first one he calls

1 cause he'd like to talk to everybody about what's going on in
2 the world, et cetera. He wants to have a meeting. So he calls
3 a meeting. One person shows up. Guess who shows up? Big Dan
4 with his tape recorder concealed. So Big Dan meets with my
5 client for several hours, and out of this I believe that the
6 government is going to play some recordings of that. And
7 it's -- I think they've got it cued up a statement or some
8 statements my client had made about contact tracers. Nothing
9 to do with kidnapping the governor. Nothing to do with
10 kidnapping the governor. Okay.

11 So the next meeting my client is involved with is
12 August 23rd. This is, as I indicated, was at Daniel Harris's
13 mom and dad's house, and there is a group meeting there, and
14 the government will play recordings of that. And some of them
15 my client is on. He was there. No agreement to kidnap the
16 governor of Michigan.

17 One to go. Luther, Michigan. So my client was
18 invited to go to Luther, Michigan, and you've heard that there
19 are other informants at Luther, Michigan. And at Luther,
20 Michigan, I think the government opened with there is a model
21 of the governor's house. I think what the evidence is going to
22 show is that there were steel -- metal stakes in the ground and
23 blue tarp draped around it, okay, and an opening. There's no
24 door. It's just an opening. And again, you know, Dan is
25 training and they are going in and pointing their guns. And

1 you saw the sinister one with my client. He had his hood over,
2 you know, posed. So that's -- that's the training. Second
3 time my client has ever been in a, quote-unquote, shoot house.
4 It was not a model of the governor's house.

5 And there was some other training as indicated, some
6 medical training. Mr. Harris, I believe, was doing some
7 medical training. So there was that going on as well.

8 Now, the government mentioned that individuals went up
9 to the governor's house that evening. My client did not go. I
10 think the government, it sounds like, is going to describe that
11 he was too drunk to go or something. He did get drunk that
12 night. I don't think there is any question about it, but not
13 at that time. But he did not go. This was the second time
14 that there was -- that they -- that people, Dan and others,
15 went up to the governor's property. There was another one on
16 August 29. Brandon Caserta did not go.

17 You heard that after this ride along or
18 reconnaissance, whatever you want to call it, at Luther, this
19 is in September, September 12th is when that would have
20 happened, that the next morning there was a meeting. Well, let
21 me -- let me back up. Before that I think you are going to see
22 that the fed, I'll call him fed Red, UCE Red, he was an
23 undercover working for the FBI. He brought a video that the
24 FBI created of explosions and bombs, and he brought it to
25 Luther. And I believe that the government is going to play you

1 excerpts of when he is showing it to people. Brandon Caserta
2 is not among them.

3 Okay. Next morning the government talks about a
4 meeting and Brandon Caserta is there. The government is going
5 to play you excerpts I believe from this meeting. You are not
6 going to hear Brandon Caserta on any of those recordings.

7 Brandon Caserta was not in charge of any training. He
8 didn't training anybody. He wasn't in charge of deciding that
9 there was going to be a shoot house in Wisconsin. He wasn't in
10 charge of where to place barrels in Wisconsin. He wasn't in
11 charge of putting together a shoot house in Luther. He didn't
12 help construct the shoot house in Luther. He didn't train
13 anybody at Luther. He didn't go on a recon or a ride along on
14 August 29th. He didn't go on any ride along or recon on
15 September 12th. He didn't agree to kidnap the governor of
16 Michigan.

17 The Judge is going to tell you to consider each of
18 these Defendants separately. That's why I'm spending so much
19 time in my opening going through my client's experience with
20 this. You are to consider Brandon Caserta separately as well
21 as Mr. Croft, Mr. Harris and Mr. Fox.

22 So there are no more events after Luther that my
23 client attends. There's the -- the government attributed a
24 statement for my client. I think they are going to play it.
25 He -- between Luther and October 7 he had been pulled over

1 twice and got traffic infractions. One for no proof of
2 insurance and one for I believe not using his blinker. And he
3 was upset. He says some mean things frankly, stuff that I
4 wouldn't approve of, and you are going to hear them and they
5 sound bad. They are bad. But they are not an agreement to
6 kidnap the governor of Michigan because he never did. Thank
7 you.

8 THE COURT: All right. Thank you, Mr. Hills.

9 *****

10 THE COURT: Do you need the video.

11 MR. BLANCHARD: No, Your Honor. Thank you.

12 The FBI is supposed to protect us from dangerous
13 criminals and terrorists. They are also an agency that's
14 supposed to protect our freedoms, and when they are doing that
15 they are expected to have thick skin. That means in protecting
16 our rights they don't punish people for saying mean things
17 about them, and they are not supposed to target people that
18 they are angry with. And we expect that when the FBI starts an
19 investigation they'll use responsible tactics, and we expect
20 that they'll follow the facts where the facts lead them, not
21 follow their preconceived notions to their end goal, and if
22 they find out that they are wrong about what they initially
23 thought, we expect that they'll end the investigation.

24 See, back in 2017, the FBI noticed that Barry Croft
25 was saying mean things about them on FaceBook. Barry believed

1 that the FBI had one of his friends killed, and the FBI began
2 to target Barry, but until 2020, nothing developed out of the
3 investigation.

4 In 2020 the FBI began investigating a group called the
5 Wolverine Watchmen. The agents decided at the beginning,
6 before they knew anything about these men, that this was going
7 to be what they called a TEI. A TEI is FBI lingo for a
8 terrorism enterprise investigation, or a really big case. And
9 back in April of 2020, one FBI agent bragged to another that he
10 had told his boss, quote, I am going to work this as a TEI
11 whether you give me the paperwork or not.

12 To accomplish their goal of working as a terrorism
13 enterprise investigation, the FBI used confidential human
14 sources or snitches. You are going to hear about a number of
15 snitches in this case. You are going to hear about Steven
16 Robeson, who also goes by Steve Roby, Steve Robeson, Roby, Roby
17 Steve. You are going to hear about Jenny Plunk. You are going
18 to hear about Dan Chapel. I expect you are going to hear about
19 others.

20 The FBI recruited Steve Robeson to work as a snitch.
21 Robeson is a felon with a criminal history spanning nine states
22 and several decades. It's not much of a stretch when talking
23 about Robeson to say he's done all of the crimes. He's got
24 convictions for theft and bail jumping, fraud and assault, and
25 he's also a professional snitch. In addition to this case

1 Robeson worked as a snitch in a biker gang case. He worked as
2 a snitch in an attempted murder for hire case when he claims
3 somebody confessed to him in a jail.

4 And the problem is the FBI ignored all of Roby's
5 problems and hired him to target a man who had expressed what
6 the FBI calls antigovernment views. He did these things on
7 FaceBook. And I mean, frankly, this is a man who spent more
8 time in FaceBook jail than all of us and really all of our
9 community combined. It's a man named Barry Croft. And so they
10 had Mr. Robeson reach out to Mr. Croft and invite him to
11 meetings. And Robeson would wear a wire at these meetings, and
12 he'd give the recordings back to his handlers, and he'd report
13 back some of what happened at the meetings.

14 And when the government heard the recordings and heard
15 what Mr. Robeson said they knew they needed to close the
16 investigation into Mr. Croft but they didn't. They knew they
17 didn't have enough evidence to try Mr. Croft to this case, but
18 they continued because they had decided, remember, back in
19 April of 2020, they were going to work this like a TEI whether
20 they got the paperwork or not. Regardless of whether they had
21 the facts to justify it or not.

22 So they set out specifically to target Mr. Croft on
23 line, and you are going to hear that there was an approval
24 process before the FBI can start targeting its citizens. And
25 you'll hear that Mr. Robeson was targeting Mr. Croft in person

1 before he even had permission to target him on line.

2 You are going to hear that Mr. Robeson invited
3 Mr. Croft to a meeting in Dublin, Ohio on June 6, and you'll
4 hear that Robeson flipped on his recorder and captured some
5 mean words that day. And when Robeson reported back to his
6 handlers, they ignored two important things.

7 First of all, Robeson was plying these guys with
8 drugs. At Dublin, Ohio and every event thereafter Robeson, the
9 FBI employee, and virtually everyone else there was stoned.
10 Like, absolutely bonkers out of your mind stoned. And the FBI
11 has rules about this, not only because marijuana is illegal
12 federally, but it's because they want to capture criminals, not
13 folks who say stupid stuff while they are high. But because
14 they decided back in April of 2020 that this was going to be a
15 TEI they brushed that aside. They just ignored that their
16 snitch as rolling blunts with everyone.

17 The FBI also ignored that Mr. Robeson was selectively
18 using his recorder. You'll hear that CHS Dan, Dan Chapel, that
19 he would record a lot of stuff. Then we have Robeson who he
20 would turn it on when he thought someone was about to say
21 something interesting. But he'd leave it off when he was
22 getting folks whipped up into a frenzy. And you'll recall back
23 in spring and summer of 2020 we had a lot of social unrest.
24 There were riots going on. Dublin is right outside of
25 Cleveland. There were riots in Cleveland and Robeson got these

1 guys worked up about that, worked up about what was happening.
2 Tried to take them over to see it. When he gets them back at
3 the hotel and they are all worked up he flips on his recorder
4 and catches some mean talk.

5 Why were they willing to ignore this? Well, they had
6 been looking at Croft for years and they hadn't found anything
7 and they were willing to ignore Roby breaking the rules because
8 they had that end goal. They wanted to work this like a TEI
9 but there was no plan, no agreement, and no kidnapping.

10 On July 11, Robeson invited a lot of people to
11 Cambria, Wisconsin for what was billed as a family friendly
12 patriot event. The FBI hired another snitch named Jenny Plunk.
13 She lives in west Tennessee. They hired her to drive from west
14 Tennessee about eight hours to Delaware to get Mr. Croft and
15 make sure he made it to Cambria, because you'll hear Barry
16 likes to stop and run his mouth really. I think you'll
17 conclude they were afraid he'd stop in Ohio and start talking
18 about the constitutionalists and patriots there, and they got a
19 reminder to take him all the way from Delaware to Cambria. And
20 you'll hear that people on the outside looking at that
21 relationship they referred to Jenny Plunk as his girlfriend or
22 his wife because of the way she behaved. Interestingly, you
23 won't hear recordings of that ride.

24 And when they get to Cambria, again, there were
25 copious amounts of marijuana. And when high Roby got everyone

1 whipped up in a frenzy, turned on his recorder to capture some
2 crazy talk, but there was no plan. There was no agreement, and
3 there was no kidnapping.

4 And so after July 11 in Cambria Robeson decides, well,
5 we should get everyone together again on July 18 in Peebles,
6 Ohio, and he invites people. There is supposed to be folks
7 from 10 to 13 states present. There weren't. You'll hear that
8 FBI agents and snitches describe this meeting as, quote, a
9 waste of time because the peasants weren't revolting. They
10 weren't talking about crimes. It didn't move the TEI forward
11 and so they were upset about that.

12 And you'll hear that people that attended that meeting
13 that aren't here were upset with Mr. Croft because he didn't
14 have any plan. Because he got up there and he ranted, said
15 some crazy talk while stoned, and left. But again, on July 18
16 there was no plan, no agreement and no kidnapping.

17 So the government didn't stop. They arranged, through
18 their snitches, to set up what they call a field training
19 exercise at Ty Garbin's property on September 11th and 12th.
20 And the government wanted Mr. Croft to be there, so much so
21 that the government got him a hotel room in Big Rapids at the
22 Super 8, and they did that because they knew Mr. Croft doesn't
23 like to camp and they were afraid if they said you got to stay
24 in a tent he wouldn't come. So Jenny Plunk rented him a room.

25 And as normal, there was lots of marijuana. And after

1 everyone was good and stoned the FBI arranged a field trip, a
2 field trip up to Elk Rapids. And they decided they were going
3 to take these guys up near the governor's house and so they put
4 Mr. Croft in a truck, in a truck that was owned by Dan Chapel,
5 a snitch, and driven by Dan Chapel, a snitch. And in the front
6 seat of that car was a sworn FBI agent who was using the false
7 name Red, and in the back seat next to Mr. Croft another FBI
8 snitch, Steve Robeson. And so they put -- after a day of
9 smoking marijuana they put Barry in the back seat of the car
10 and they take him on a field trip.

11 And you'll hear they never actually found the
12 governor's house. They didn't have the right address. The FBI
13 drives him up around there, ends up taking Barry to a boat
14 launch where he smokes a cigarette, gets in someone else's
15 truck and rides back to the hotel where he goes to bed.

16 After the Luther event there is still no plan, no
17 agreement, and no kidnapping. At each step in this case the
18 FBI had good reason to close the case.

19 Before the targeting of Mr. Croft was authorized
20 Robeson took Mr. Croft on vacation in May in South Carolina.
21 He was specifically told -- Robeson was specifically told to
22 leave Croft alone, but he targeted him anyway. And when the
23 FBI learned that he disobeyed their direction to leave him
24 alone the evidence will show they should have closed him as a
25 source. They should have closed Roby as a confidential human

1 source, but they didn't.

2 You'll hear that when they learned Robeson was smoking
3 pot with everyone in Dublin, Ohio they should have closed him
4 as a source. When they learned that Robeson was selectively
5 reporting things that he thought sounded bad, they should have
6 closed him as a source.

7 When they heard Mr. Croft's crazy talk while stoned,
8 they knew it was just crazy talk and not a plan. When they
9 heard Mr. Croft was talking about diverting rivers into
10 underground caverns in the Shenandoah Valley so he could grow
11 food by redirecting light using mirrors, they should have known
12 this was stoned crazy talk and not a plan.

13 When their snitch reported back that Mr. Croft was
14 telling him about how the Egyptian pyramids create a counter
15 magnetic flow that would allow Chelsea's chariots to enter the
16 atmosphere at three times the speed of light without crashing
17 into the earth's crust, they knew it was crazy stoned talk, not
18 a plan.

19 When he explained that the solution to our political
20 problems in 2020 is that we need a constitutional
21 correspondence committees in every state to send each other
22 letters and that will fix it all, the FBI knew this was stoned
23 crazy talk and not a plan.

24 When the snitches heard that Mr. Croft said what we
25 should do is we should cut down all the trees along the

1 Indiana/Ohio/Michigan border to protect the state because, I
2 don't know, people can't step over trees? They knew it was
3 stoned crazy talk and not a plan.

4 When they heard Mr. Croft talk about using an
5 electromagnetic pulse device, you know, stuff from movies, to
6 disable electronics, they knew this was crazy talk, not a plan.

7 When they heard talk about maybe we should go hide in
8 the woods and bark at the Governor because then she'll know
9 maybe the animals have turned against her, they knew this was
10 stoned crazy talk, not a plan.

11 When there was talk about what we could do, you know,
12 we could put some car radios attached to car batteries in the
13 woods and play loud music at night like he's Manuel Noriega and
14 won't come out, they knew it was stoned crazy talk.

15 When there was talk about what we need to do is we'll
16 cut down the communication towers, we'll have them fall over
17 the runways so helicopters can't take off, they knew it was
18 stoned crazy talk.

19 When they heard talk about Black Hawk helicopters and
20 rally points on Lake Michigan and exits down the St. Lawrence
21 Seaway, they knew it was stoned crazy talk.

22 When they heard the suggestion, you know what we could
23 do, we could attach her to a kite and fly her over Lake
24 Michigan -- that's not how kites work. They knew it was stoned
25 crazy talk.

1 When they heard Mr. Croft talk about direct energy
2 weapons from outer space that were causing the forest fires
3 that magically didn't jump across the border into Canada and
4 that the government was controlling them, they knew it was
5 stoned crazy talk.

6 When they heard talk about shooting down airships with
7 what? They knew it was stone crazy talk.

8 When they heard talk about raising an army of 200 men
9 or putting a boat on the back of a semi tractor trailer,
10 driving it into a lake, and rolling out into the water because
11 water is my friend, somehow getting in the boat and doing who
12 knows, they knew it was stoned crazy talk.

13 The FBI was angry with Mr. Croft. They knew that
14 Mr. Croft was angry with the government.

15 MR. KESSLER: Your Honor, Your Honor, can we approach
16 for a minute?

17 THE COURT: No. What's the problem. I mean, it's
18 argumentative. It's over the top more like closing than
19 opening, but it's still tethered to the evidence.

20 MR. KESSLER: But all that evidence we have had
21 rulings on and all --

22 THE COURT: If none of the evidence comes in then it
23 will be a great opening statement with nothing to support it,
24 and I think the jury will follow my instructions to just decide
25 on the evidence, and it's up to every lawyer to take their

1 chances if they want to present things that may not come into
2 evidence.

3 MR. KESSLER: We'll point it out, Your Honor.

4 THE COURT: I think you probably will.

5 Go ahead, Mr. Blanchard.

6 MR. BLANCHARD: The FBI knew that Mr. Croft was angry
7 with the government. They also knew that he was all talk. But
8 you can't prosecute someone for talking, so they brought him
9 nearly a thousand miles from Delaware to Michigan, put him in a
10 car with some folks he hardly knew, took him on a field trip
11 while he ran his mouth most of it.

12 There was never a plan. We expect better from our
13 government. We expect that they'll protect us from terrorists,
14 but understand that it's not criminal to dislike your
15 government. It is quintessentially America to dislike your
16 government. And you can tell the FBI that it's not okay to
17 prosecute people that you are angry with. It's not okay to
18 prosecute folks because they run their mouth. It's not okay to
19 decide before doing any investigation that a case will have a
20 particular outcome. And the way you do that is by returning a
21 verdict of not guilty.

22 THE COURT: All right. Thank you, Mr. Blanchard.

23 So Mr. Blanchard had the opportunity to present an
24 opening that captured all the issues that he wants to
25 eventually argue to you, including entrapment. Because

1 Mr. Gibbons, Mr. Kelly and Mr. Hills didn't have that chance
2 I'll go to you next, Mr. Gibbons, and give you your opportunity
3 for a supplemental opening. Seven minutes.

4 MR. GIBBONS: Thank you, Your Honor.

5 Good morning again. It is still morning barely. I
6 would like to talk to you about how this case worked with
7 respect to my client and how in the face of not finding
8 agreements with the wire that CHS Dan was wearing when he would
9 stop in at the Vac Shack and start talking to my client and
10 talk to him about militia stuff, trying to elicit interest and
11 ideas that are negative and hateful towards the governor.

12 Adam Fox would protest or at least say, hey, I don't
13 know if that's such a good idea. He would reject the notion
14 that it would be a good thing to kidnap the governor. Adam
15 would have concerns that it would be devastating to the
16 community if something like that happened. But Big Dan was not
17 deterred.

18 We talked earlier this morning about the incentive for
19 Big Dan. He is making envelopes full of cash. Evidence will
20 show he was paid \$64,000 for his work in the summer of 2020.
21 That really only keeps going if he can bring back something to
22 the FBI that they think is meaningful and useful. Adam Fox
23 smoking copious amounts of marijuana and talking about
24 helicopters is really not going to get that done.

25 Dan presses forward. He gives other ideas,

1 suggestions, questions, like, why don't you go up and put --
2 fire a round into the governor's house? That doesn't cost any
3 money. Why don't you get a hold of all the people we
4 introduced to you in Wisconsin and Ohio, the national militia
5 members? Get a hold of them. Have each state fire a high
6 caliber rifle into each state's governor's homes. They can
7 mail the casings in on the same day, shoot them off at the same
8 day and amplify the message.

9 At Munith, on August 9th, the boys reject the
10 suggestion that the governor should be kidnapped. That does
11 not deter Dan. Dan needs an objective. He's been imploring
12 them since June at meetings, taking them to Cambria, stopping
13 in, calling on the phone. He says things like you can train
14 for everything but what's your goal? Because the goal is what
15 the government wants. Once you have a goal you can get an
16 agreement, a tacit agreement. And if you get a tacit agreement
17 alls you got to do is stage something so it looks like they are
18 actually doing something about that tacit agreement. It's an
19 unspoken agreement. And I'll give you some examples of that.

20 The ride along up to Elk Rapids in August to surveil
21 the governor's cottage. That idea was Dan Chapel's. Dan
22 Chapel suggested it in July. Dan Chapel suggested it again in
23 detail at the Munith training on August 9th. Dan Chapel
24 arranges and invites people to go on his ride along. He tells
25 people it's Adam's idea. But I think the evidence is going to

1 show it wasn't Adam's idea. It was Dan's idea.

2 You are going to see evidence that Mr. Chapel would
3 communicate by text with the FBI agents handling him, asking
4 them, who do you want to go on the ride along? How many
5 ride-alongs do you want? Dan had a lot of credibility with the
6 people he dealt with in this case and the militia in the
7 Wolverine Watchmen. They wanted to please him. He was -- they
8 perceived him to be a superior, a leader, someone they looked
9 up to. They didn't want to say no.

10 Dan Chapel actually texted his supervising agent at
11 one point before the ride along that he thinks he's got 10 to
12 15 people lined up to go. That's when he says, geeze, I don't
13 have that much room in my truck. Maybe we should do two.

14 THE COURT: Two minutes.

15 MR. GIBBONS: The point is, everything that moves this
16 case forward, everything that gets us to October when these
17 guys are taken down in a parking lot in Ypsilanti, it's the
18 government moving all of them as Mr. Blanchard has indicated
19 with Mr. Croft's experience, sitting in a car with people he
20 doesn't know who are supposed to be intimately involved in some
21 conspiracy that he is involved in. It doesn't add up. None of
22 it proves an agreement.

23 My client is, first of all, not guilty you will find
24 at the end of the close of proofs because he never made an
25 agreement with anybody, and to the extent he was put in a

1 compromising position like being found in an informant's
2 vehicle in Elk Rapids, that's all the government's doing. It's
3 all parlor tricks. They never left the public road. They
4 never left a public area. They never went on her property. He
5 is not guilty.

6 THE COURT: All right. Thank you, Mr. Gibbons.

7 We'll go to Ms. Kelly.

8 MS. KELLY: Thank you.

9 THE COURT: Seven minutes.

10 MS. KELLY: Good afternoon, Ladies and Gentlemen.
11 Once again I wanted to start off in talking a little bit more
12 about the relationship with Big Dan and Daniel and talk a
13 little bit more about that training and why that training is
14 important.

15 Big Dan, when he met Daniel, held himself out to be an
16 instructor. His business on LinkedIn says that he is an
17 instructor for training. And Daniel, as I told you in the
18 beginning, was looking for that training and also for some
19 socialization with other people that thought like him. So it
20 was very attractive to Daniel to follow Big Dan and go to these
21 trainings, these free trainings on private land to shoot his
22 guns.

23 I anticipate the evidence will show several other
24 members of the Watchmen that left the Watchmen will also say
25 the same thing about Big Dan. Big Dan was the leader. He was

1 in charge. He led the trainings. He showed us how to do
2 things. I had questions. How do I shoot out of a vehicle?
3 You go ask Big Dan. That's who is leading these trainings and
4 that's what Daniel was looking for in the summer of 2020.

5 Big Dan drove the boys to the training in Wisconsin,
6 rented a big car so they could all fit in and drive there
7 together. Daniel didn't have to pay for a thing there.

8 In May, right after May 14th, the first day that
9 Daniel met the Wolverine Watchmen, Big Dan takes the leaders,
10 Joe Morrison and Pete Musico, buys them some food and talks to
11 them about what your plan is. And they say, we just want to do
12 defensive training. We are worried that something bad is going
13 to happen to us. That's what they wanted from Big Dan, and Big
14 Dan was pushing for more offensive training. My BF training.
15 More going through houses. That was Big Dan leading that
16 training.

17 Big Dan then calls the handlers in May and says, I
18 think these guys are just wasting my time. I mean, what is
19 their plan even? So he acknowledges to the FBI agents that
20 there is no plan. These guys don't want to do anything. They
21 are more worried about the world coming to an end.

22 But Dan was continuing to push these guys, and when
23 Adam Fox came on the scene, Big Dan then pushed these guys
24 toward Adam Fox. Not successfully. You'll see that in the
25 chat messages. You'll see that in the group messages. These

1 younger guys like Daniel and Adam Fox didn't talk a whole lot.
2 They didn't talk on the phone. They talked over chat messages,
3 but they had their own private messages amongst themselves.

4 On that day, on June 15th, Big Dan keeps Daniel out of
5 a conversation with Joe Morrison talking about Adam Fox, and
6 then pulls him over at just the right time so Daniel is left
7 out of that conversation and brought in, and you'll hear that
8 conversation.

9 The government talked about explosives, and Daniel and
10 explosives and lighting up fireworks in Cambria, Wisconsin.
11 Guess who was the one that called Daniel over to talk about
12 explosives? It was Big Dan. Big Dan says, hey Daniel, you
13 know anything about explosives? And Daniel says, I was an
14 infantry man in the U.S. Marine Corps. I think I can try.
15 Whatever you say Big Dan. I'll try.

16 And the government also talked about statements that
17 Daniel Harris made on August the 9th. And I know Mr. Gibbons
18 has talked about August the 9th, but I want to put it into
19 reference with Daniel. So Daniel is at a training at the
20 property in Munith, and they are asked who is down to kidnap
21 the governor? Daniel says no. Shut up. We are not Frank.
22 Frank Butler. You remember the guy that I told you was the
23 laughing stock of these guys. No. We are not doing that.
24 Again is asked, hey, who is -- I am not talking about killing
25 her, but like, what if we just go grab her. No snatch and grab

1 I swear to fucking God is what Daniel Harris says.

2 What does Big Dan do with these agents because these
3 guys know that Daniel Harris is not down for the plan? He
4 takes him out. Gets him drunk.

5 MR. KESSLER: Your Honor, I know I get to, like,
6 comment later on the failure to produce things, but we are
7 hearing things in opening statement that the Court has
8 expressly excluded as inadmissible.

9 THE COURT: It's up to the lawyers I think to decide
10 what risks they want to take. I made pretrial in limine
11 rulings, and if the evidence that they want to highlight
12 doesn't come in, I think the jury will be able to ignore it and
13 follow my instruction.

14 MR. KESSLER: Understand, Your Honor.

15 MS. KELLY: Thank you, Your Honor.

16 And so Big Dan takes Daniel Harris out for beers, and
17 then the agents and Big Dan call and they say, well, Daniel
18 Harris isn't down for this. Maybe we can come up with a softer
19 target. Let's think about a different plan because Daniel
20 Harris isn't down for this. And that's Big Dan doing that.

21 THE COURT: Two minutes.

22 MS. KELLY: Thank you, Your Honor.

23 The two reconnaissance or field trips or whatever we
24 want to call it, August 29th and then in September, September
25 the 12th. Daniel Harris isn't on those trips. He is asked

1 because the agents tell Big Dan to ask him. He says, no. I
2 have to work. What about Sunday? No. I have a date. And
3 then he is never asked on September the 12th. Never asked to
4 go on that trip. So he is not on either of those trips. First
5 he says no. Second time he's never asked, never invited.
6 Because why? Because Big Dan -- and I asked that question on
7 my first time that I got to talk to you all. Big Dan says,
8 Beaker -- who you'll learn is my client's nickname that he got
9 in the Marine Corps. Beaker won't want to.

10 When we come to the end of the case I told you at the
11 beginning Daniel Harris was not perfect in the summer of 2020.
12 He made statements. He did things that you may not agree with,
13 but what he did not agree to is conspire to kidnap the
14 governor. What he did not agree to was to weapons of mass
15 destruction or to possess destructive devices, and I'll ask you
16 at the end of this to find him not guilty of that. Thank you.

17 THE COURT: All right. Thank you. Ms. Kelly.

18 Mr. Hills, seven minutes.

19 MR. HILLS: I think I want to use my time to emphasize
20 where my client was and where my client was not because we hear
21 Mr. Blanchard talk about a lot of things backing up even to
22 2017. My client -- and then to May of 2020. My client was not
23 aware, not a part of any of that portion of the investigation.
24 My client was working at his job, living in his apartment, and
25 gathering his prepper material as I talked about earlier. He

1 came in in June of 2020. And we've heard a lot of different --
2 a lot of different events. The last one I heard was August
3 9th. There was an August 9th FTX at Munith. My client was not
4 there.

5 I already told you that my client -- Big Dan rented a
6 Suburban actually and Big Dan drove my client and others to
7 Cambria, Wisconsin based on the response by Steve Roby, and
8 they had the shoot house there and the government gets the
9 pictures of my client in the shoot house. And I think you are
10 going to see that there were people taking pictures there.
11 Obviously videos because we've got them. So it wasn't terribly
12 secret there. But I wanted to emphasize, also, that at
13 Wisconsin it was I believe the 10th, 11th, 12th and the 13th.
14 The 10th and the 13th they went and then come home.

15 Before Wisconsin there was a meeting on July 7 at a
16 gentleman Paul Bellar, you'll hear his name probably
17 throughout, his house. My client was not there for the
18 pregoing to Wisconsin meeting.

19 After Wisconsin there was another meeting in July,
20 July 23rd, at Daniel Harris's house. My client was not there.

21 So I would ask you to please remember as we go through
22 this my client was only at five trainings. Two of those are
23 shoot houses, and the shoot houses were all basically
24 government sponsored events. Wisconsin was Steve Robeson as
25 we've heard now a lot about. He was there and he was the one

1 that it wasn't at his house. It was at his friend's house.
2 You will see the yard and you'll see the cornfield. You'll see
3 a lot of people hanging about there.

4 And then the final one was at Luther, Michigan, again,
5 Ty Garbin's spot up north, Northern Michigan, and that was the,
6 I guess, grand daddy of the fed sponsored events because as
7 you've heard we got fed Dan, fed Red, fed Mark, fed Jenny, fed
8 Steve and probably lots of other feds surrounding the place I'm
9 sure.

10 But I want to emphasize that my client didn't have a
11 part in putting together the FTX at all, the field training
12 exercise as they call it. You'll hear this lingo. Didn't
13 build the shoot house. And it doesn't appear to be terribly
14 secret. There are lots of people there, and there are people
15 recording, taking videos, I believe some still pictures. And
16 that's where they have my client in the shoot house. They took
17 pictures of him in the shoot house. Something that he didn't
18 put together or organize. That's what I wanted to emphasize.

19 How quickly did I do that, Judge?

20 THE COURT: You have three minutes left. It's
21 uncharacteristic.

22 MR. HILLS: The jury has heard enough from me. I
23 thank you.

24 THE COURT: Thank you, Mr. Hills.

25 We'll go to the government.

1 MR. ROTH: Good afternoon. The Court has generously
2 given me about 20 minutes. I don't anticipate using nearly
3 that, but I do want to take some time, a few minutes to address
4 the issues of entrapment and give you an expectation of what
5 you are going to hear during this trial.

6 As has been discussed by the Defense attorneys you
7 will hear that there were a number of different informants and
8 investigators, undercover investigators used during this
9 investigation. The number of undercover investigators, the
10 number of informants, is no evidence of entrapment at all. In
11 fact, what you will hear and what you'll find is that the
12 number of investigators is dictated, if not necessary, because
13 of the seriousness of the offense that when you have people
14 dealing with weapons, a number of weapons, with explosives,
15 with bombs, you need more investigators to try and control that
16 because lives are at risk.

17 So now we get into what actually is entrapment. It's
18 not an idea or a feeling. I'm sure it's something we've all
19 heard from on TV, maybe have some rough idea, and as the Court
20 gave you an outline before, it is a legal standard. It is not
21 just the way you feel upon hearing things. It is a legal
22 standard.

23 And there are two very important ideas that I would
24 like to discuss with you. This is exactly what the Court will
25 tell you. If the government gave the Defendants an opportunity

1 to commit a crime, gave them an opportunity, that is not
2 entrapment. So giving somebody a ride somewhere, not
3 entrapment. Giving them a website, not entrapment. Hosting
4 events, not entrapment.

5 The second idea that I want to discuss, second
6 principle of entrapment that is very important and a little bit
7 more lengthy, is that if the Defendant was already willing to
8 commit the crime then it's not entrapment. These Defendants
9 were willing and eager if not already preparing to commit this
10 crime long before law enforcement got involved.

11 Let's go through them one by one, first talking about
12 Mr. Croft. He's been involved in this Boogaloo movement about
13 civil war and overthrowing the government for years. You will
14 hear recordings in which he talks about how many Novembers has
15 it been that I've been in this movement? As you saw and as you
16 will see he has a tattoo on his arm, his forearm, that says,
17 expect us. It's not just that, but below it what it says is
18 Second Delaware Continental Regimen. This is not an actual
19 military regimen. This is the regimen he believes in, he will
20 be a part of in the second civil war that he intends to start.
21 Nobody forced Barry Croft to do this. Barry Croft got in his
22 car and drove across the country twice because this is and
23 always has been a very important thing for him regardless of
24 any law enforcement.

25 Let's talk about Mr. Fox. Mr. Fox has also been

1 talking about this before meeting any informants, and in fact,
2 it is only because of his interest in this Boogaloo movement
3 and the idea of starting a second civil war by targeting law --
4 excuse me, by targeting government officials, that he even met
5 the informants. As you heard and as you will hear it's when he
6 goes to these meetings already that he comes in contact with
7 informants. Before he was going to these nobody was reaching
8 out to him. Nobody was influencing him. He got himself
9 involved in this.

10 It was Croft who ultimately -- excuse me, who
11 ultimately connected him to the Wolverine Watchmen. And Fox
12 was no mere follower, and you will hear that from his own
13 words. You will hear him say, the way I feel like I can lead
14 best is by fucking example. I don't feel like I can be a good
15 leader telling people what to do things. I think I can be a
16 good leader by showing them what to do.

17 Daniel Harris. Daniel Harris had been talking about
18 and detonating bombs before meeting the informants. He helped
19 build and set up a -- excuse me, helped build and sell ghost
20 guns independent of all this. He and Ty Garbin and Kaleb
21 Franks came up with the idea to build and sell illegal and
22 untraceable firearms to people who could not otherwise buy
23 guns. And within the movement he was certainly not subject to
24 anybody else's demand and certainly not to CHS Steve as has
25 been suggested. But when Daniel Harris sees CHS Steve posting

1 things about the movement and the plans on FaceBook it's Dan
2 you will hear who tells him don't. I wouldn't put it on
3 FaceBook Twitter. None of that. If you are going to send
4 that, fucking print it out and fucking mail it. That's how
5 concerned he is about operational security that they not get
6 detected. And it is in that same light that Daniel Harris
7 tells the others to change their encrypted chat application
8 because he, regardless of anybody else, is devoted to the
9 success of this mission.

10 And finally, Brandon Caserta. His home you will see
11 was filled with antigovernment conspiracy theory items. No
12 informant, no law enforcement put those there. This was a
13 topic and a movement that he was a part of well before. And
14 you will hear him say, whatever we do in the future this is my
15 personal choice to be involved here, so I voluntarily consent
16 and I accept responsibility for anything that happens to me.
17 So you know, my word is solidified as far as what's going on.

18 You will hear him say that CHS Dan and nobody else
19 told him to do anything.

20 And while those are important points to pay attention
21 to as the trial goes on. The most important is this. Listen
22 to them. Read their words. Listen to their statements.

23 And the same applies for Dan and the others. You will
24 hear from Dan in these recordings time after time is uh-huh,
25 yeah, okay, right. He listens. He takes it in. He is a

1 sponge. But the others you will hear are the ones with
2 enthusiasm, eager to commit these crimes, coming up with new
3 ideas, coming to agreement and planning. They chose this plan.
4 They chose this crime and it was because they wanted it.

5 Ms. Kelly also touched on another relevant point here,
6 which is that people left. People left the Wolverine Watchmen
7 because of how extreme this was, because people were not into
8 this. Nobody forced these people to participate. People
9 walked away because of how extreme the Defendants were.

10 And then there is Ty Garbin and Kaleb Franks, and they
11 will tell you -- the two Defendants who are also charged in
12 this case, pled guilty to conspiring with these Defendants to
13 kidnap the governor. They will tell you that they were not
14 entrapped. They will tell you that they made their own
15 decisions, and they will tell you that the Defendants did the
16 same thing.

17 Attorneys make a lot of promises in opening
18 statements. A lot of promises were made this morning, this
19 afternoon. Pay attention to the evidence. Pay attention to
20 what actually comes in as evidence, what actually happened
21 versus what we promise today. It is what actually comes in as
22 evidence that matters. Our statements, our arguments, do not.

23 When you consider that evidence, what is actually
24 introduced over the next few weeks here at trial, what you will
25 find is that these four men conspired amongst themselves and

1 others to go to the governor's home and to kidnap her at
2 gunpoint and that they were not entrapped to do so. And at the
3 end of this trial we will ask you to find them each guilty of
4 those offenses. Thank you.

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REPORTER'S CERTIFICATE

I, Paul G. Brandell, CSR-4552, Official Court Reporter for the United States District Court for the Western District of Michigan, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a full, true and correct transcript of an excerpt from the proceedings had in the within entitled and numbered cause on the date hereinbefore set forth; and I do further certify that the foregoing transcript has been prepared by me or under my direction.

/s/ Paul G. Brandell

Paul G. Brandell, CSR-4552, RPR, CRR

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